

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
MAY 16, 2016**

Mr. Thomas Franko called the meeting of the Planning Board to order at 7:30 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2016 and January, 2017 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Franko, Mr. Hurring, Mr. Brower, Ms. Hagner, Mr. Travisano and Mr. Nelson. Mr. Ciccarone, Mr. Sullivan, Mr. Saluzzi and Mr. Murray were absent. Mrs. Swartz arrived a few minutes late.

Also present were Board Attorney Steven Warner and Township Engineer John Ruschke. Township Planner Frank Banisch was absent.

Approval of Minutes

In reference to the minutes of the May 2, 2016 meeting, Mr. Brower asked if Mr. Ruschke had made a recommendation regarding responsibility for cleaning out of drywells on the subject properties. Mr. Warner said that the matter would be dealt with in the approval resolution, and Mr. LaConte cited a section of the minutes in which responsibility for drywell maintenance is discussed.

Mr. Brower moved to approve the minutes of the May 2, 2016 meeting. Mr. Nelson seconded the motion, and it carried unanimously with abstentions from Ms. Hagner, Mr. Travisano and Mr. Franko.

Hearing

Plan: 16-9-1 (March 21, 2016) Longview at Chatham, LLC, Longview Ave, Block 9, Lots 1 & 1.01, Block 32 Lot 2, Block 33 Lots 1, 1.01, 1.02, 14, 14.01, 17 & 20. Variance relief from certain conditions contained in June 4, 2012 Prior Planning Board Approval and Engineering conditions detailed in review dated January 29, 2016.

Attorney Steven Schaffer was present to represent the applicant. Mr. Schaffer provided background on the application for the nine lot subdivision known as High Gate at Chatham. He said that in the construction of the development there are deviations not in accordance with the approved plans. Due to those deviations, the applicant is requesting additional variance relief. Mr. Schaffer introduced Rob Moschello, who is the design engineer for this application.

Mr. Moschello and Board Engineer John Ruschke were both sworn in to give testimony. Mr. Moschello provided his qualifications and was accepted as an expert witness.

Mr. Moschello presented an aerial photo exhibit highlighting the lots created by the prior subdivision application. Mr. Schaffer addressed the easements on the new lots. Mr. Moschello noted that there is a provision in the approval that a homeowners association be created to deal with the maintenance of the retention basin. Mr. Schaffer said that he has been working with Township Attorney Albert Cruz about the descriptions and monument settings of the easements.

Mr. Moschello provided a description of what had been approved regarding the Mountainside Drive and Longview Ave roadways, as well as stormwater management improvements. He said that the road has been graded and generally constructed, and both curbing and utilities have also been installed.

Mr. Brower asked if the applicant is seeking relief from conditions that the applicant created. Mr. Moschello said that such is the case.

Mr. Moschello presented an exhibit showing the areas of disturbance and the deviations from what was originally approved. The first deviation from the approval discussed by Mr. Moschello was an 8-foot section of driveway that was supposed to be graded to 15%, but was actually graded to 20%. Ms. Hagner asked why the deviation occurred. Mr. Moschello said that there was a limit of cut line in the curb for the driveway which needed to be met. Mr. Ruschke said that the appropriate time for the correction to the driveway would have been before the curbing was installed. He also said that there is an issue with the quality of work. Engineer Ruschke also stated that the homeowners had submitted a waiver that they were aware the work was going to be performed, however they have not yet submitted a response to the quality of the work.

Mr. Schaffer noted that the stormwater system as it is now is an improvement over the conditions that existed prior to this work.

Mr. Moschello described the deviations on Mountainside Drive. Mr. Moschello also presented an exhibit that shows disturbance to a conservation easement. Mr. Hurring asked why the excess disturbance was made. Mr. Moschello said that it appears that the contractor most likely did not follow the setbacks for the grading that needed to be performed and did not get a proper stake out for the limited disturbance.

Mr. Travisano asked what assurance the Board would have that the contractor will not continue to disturb more than what is allowed. Mr. Moschello said that during the site visit, the Board will be able to see the measures that have been taken to protect the areas that are not supposed to be disturbed, and further disturbance can be prevented if the controls remain in place and the contractor is monitored more closely.

Ms. Hagner asked how the easement was disturbed. Mr. Moschello said that the grade was changed, and he pointed out the disturbance in his photo exhibit.

Mr. Hurring asked about consequences for the excess disturbance. Mr. Ruschke said that restabilization is needed, as opposed to restoration.

Mr. Brower said that Mr. Gunn, the developer, should have been properly supervising his contractor. Mr. Ruschke said that a lot of shortcuts were taken, and there should have been better quality control. He also said that he has no confidence that Mr. Gunn would follow any direction, noting the repeated violations and stop-work orders that have been issued. Mr. Ruschke indicated that the Developers Agreement has expired, and the Township Committee has declared the developer in default of the agreement so as to involve the bonding company. Mr. Brower asked what enforcement measures can be taken moving forward. Mr. Ruschke said that the Planning Board is not an enforcement agency. Mr. Warner said that the Township Committee could potentially take legal action. Mr. Franko noted that more information needs to be gathered. Mrs. Swartz said that the project needs to be completed so that the neighbors will not be inconvenienced by it any longer. She also expressed the frustration with the repeated requests for forgiveness regarding this project.

Mr. Moschello discussed a deviation in the driveway on Block 33 Lot 11 in which the permitted slope is 15% yet the existing slope is 18%. Mr. Franko asked about the potential impact of the deviation. Mr. Moschello said that he does not think it will have an impact on a vehicle's inertia when trying to stop. Mr. Hurring asked if the change in slope will affect vehicle safety. Mr. Moschello said that the deviation should not cause cars to bottom out. Mr. Hurring asked what the options are to correct the driveway. Mr. Moschello said that the pavement would have to be milled out and the gravel would need to be lowered so that the grade could be corrected. Mr. Ruschke said that this particular deviation was a field change that he had approved, and he suggested that it be included in this application for memorialization due to the number of other deviations which require Board approval.

Mr. Moschello presented exhibits showing photos of the deviations. He also noted a retaining wall that was built closer to the curb in the eastern cul-de-sac than what was permitted. In order to move the wall back, the area would need to be disturbed again. Mr. Moschello said that the cul-de-sac still meets RSI standards, and this deviation does not affect the ability of trucks to turn around.

Engineer Ruschke commented on the fact that the developer is taking an overly long time to complete the project.

Mr. Moschello continued to present photos of deviations from the approved plans. He also noted that a variance on Block 9 Lot 1 needs to be listed on the plan, and that it is a variance for disturbance. The application includes six steep slope variances, a variance for the retaining wall in the Township right-of-way and variances for the two driveways which are incorrectly graded.

Engineer Ruschke suggested that the deviation in the retention basin should be noted. Mr. Moschello addressed the retention basin's slopes. He also said that there was a flash flood event shortly after the retention basin was completed, and the rainfall impacted the side-slopes in the basin. He said that there may be a need to repair the slopes in the retention basin so as to address concerns brought up in a memorandum from Mr. Ruschke. Mr. Ruschke said that the basin was

not constructed correctly and is not in accordance with industry standards. He also explained the factors of safety for retention basins. Mr. Schaffer said that the applicant is requesting that a geotechnical expert's opinion be offered to address the retention basin and if there is an acceptable margin of error.

Mr. Ruschke also addressed a deviation with a guide rail being constructed closer to the curb than what was approved in the original design and asked if it will be fixed or if rub rail will be installed. Mr. Moschello said that he and the applicant are still trying to work out that issue.

Mr. Franko said that he expects there to be more testimony offered following a site visit. Mr. Schaffer said that the lots will be marked out for the site visit. Mr. Warner said that the site visit will need to be open to the public and suggested that a variance map be available. June 4, 2016 was noted as already having been publicly noticed for a site visit. A more detailed summary of the site visit will also be generated, however there will not be any testimony offered at the site visit. The site visit will be held at 9:00 AM. The next regular meeting of the Planning Board is scheduled for June 6, 2016, at which this hearing will be continued.

Mr. Nelson moved to adjourn at 9:39 PM. Mr. Hurring seconded the motion, and it carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary